IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

WP(C).No. 20273 of 2006(L)

OS.500/1996 of ADDL.SUB COURT, N.PARAVUR

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PETITIONER:

MRS.SAVITHRI, 70 YEARS,
W/O. SACHIDANANDAN, MANNIYALIL,
ALAMTHURUTH MURI, VADAKKEKARA VILLAGE,
PARUR TALUK.

BY ADV. SRI.V.A.PRADEEP KUMAR

RESPONDENT:

SIVASANKARAN, S/O. VAVA,
PATHAYAKKATTIL, MURUAVANTHURUTHU MURI,
VADAKKEKARA VILLAGE.

BY ADV. SRI.B.N.SHIVSANKAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.20273/06

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF EP.464/03 IN OS.500/96 OF SUB COURT, N.PARUR.

EXT.P2 – TRUE COPY OF PETITION FILED BY PETR. IN EA.425/06 IN EP.464/03 IN O.S.500/96 FOR POLICE ASSISTANCE.

EXT.P3 – TRUE COPY OF PETITION, EA.424/06 IN EP.464/03 IN O.S.500/96

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.20273 OF 2006

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DATED THIS THE 4th JULY, 2007

J U D G M E N T

The petitioner is aggrieved by the order of the execution court permitting the decree-holder-respondent to purchase the property in auction and the subsequent sale of the property in favour of the decree-holder. As rightly submitted by the learned counsel for the respondent, the petitioner's remedy, even if he is having a legitimate grievance, is to file a proper application under Order XXI Rule 89 or Rule 90 C.P.C. At the same time, it is seen that while admitting the Writ Petition, this Court imposed a condition that the petitioner shall pay or deposit a sum of Rs.One lakh. According to counsel, the above condition has been complied with by the petitioner. The above submission is not disputed by the learned counsel for the respondent. Mr.B.N.Shiva Shankar, counsel for the respondent further submitted that the respondent will be prepared to receive the balance amount due to him under the decree inclusive of all the expenses incurred in the context of the sale, provided the same is paid within a reasonable time.

2. In view of the above submissions, I dispose of the Writ Petition issuing the following directions:-

The order of stay presently passed will continue for two more months from today. It is open to the petitioner to pay the entire balance amount due under decree inclusive of the expenses incurred in connection with the purchase of the property in auction to the decree holder and apply to the court below under Order XXI Rule 89 for setting aside the sale. If such an application is received, the court below will hear both sides and take a decision on the same at the earliest. At any rate, the order of stay will not continue beyond two months. If the amount is not paid, the Writ Petition will stand dismissed and the court below will issue necessary orders confirming the sale.

(PIUS C.KURIAKOSE, JUDGE)

tgl